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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,346	12/08/2003	George Roussos	014442-000002a	1345

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EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT PAPER NUMBER

1773

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,346

Applicant(s)

ROUSSOS, GEORGE

Examiner

D. S. Nakarani

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/09/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18, lines 2-3, the phrase "one or more intermediate layer comprises a material comprising white TiO₂ pigment" renders claim indefinite. It is not clear from the claim language whether one or more intermediate layers comprises 70% white TiO₂ pigment or the material is comprises 70% white TiO₂ pigment (i. e. master batch containing 70% white TiO₂ pigment). Also 70% renders claim indefinite in absence of specifying whether % is based on weight or volume, and specifying base for calculation.

Claim 22, line 3, the phrase "5% of erucamide and 10% natural silica" renders claim indefinite in absence of specifying base for calculation of recited percentages and of specifying whether it is based on weight or volume.

In claim 23, recited percentages of components of layers (a), (b), (c), (d), (f), (g), (h) and (i) cannot be understood in absence of specifying base for calculation and of specifying whether recited percentages are based on weight, volume or mole.

Also the phrase "melting point of 99C" where ever occurs should read – melting point of 99° C --. The phrase "density of 0.902" where ever occurs renders claim indefinite in absence of specifying units.

3. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10, 12, 15, 16, 19-22, 24 and 25-26 are rejected under 35

U.S.C. 102(b) as being anticipated by Yoshii et al (U. S. Patent 6,146,726).

Yoshii et al disclose a heat-shrinkable multi-layer film comprising sealing layer (C) made of linear ethylene-1-octene copolymer such as Affinity PL – 1880 (Table 1, and col. 5, line 1 to col. 6, line 40), outer layer (A) composition also can be same as layer (C) (Col. 7, lines 45-51), a barrier layer (B) of copolymer of vinylidene chloride and vinyl chloride and/or methylacrylate (Col. 8, lines 20-32), intermediate layers D1 and D2 (Col. 8, lines 54 to col.9, line 50) and adhesive layers, as needed, made of polymer such as EVA, acid modified LLDPE etc (Col. 9, lines 51-67). Yoshii et al disclose irradiating film (Col. 9, lines 22-50 and col. 12, lines 61-67). Yoshii et al teach addition of additive such as silica and

erucamide to the sealing layer (C) (Col. 12, lines 22-45 and Examples 1, 5, 6, 7 etc.). Yoshii et al disclose production of film by co-extrusion and double bubble process (Example 1 and col. 12, lines 46-53). Yoshii et al disclose that their film can be used for packaging processed meat products, fresh red meat and cheeses (Col. 1, lines 4-28).

6. Claims 7, 11, 13, 14, 17, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii et al (U. S. Patent 6,146,726) in view of Bekele (U. S. Patent 4,909,726) and Lind et al (U. S. Patent 6,074,715).

Yoshii et al which has been discussed above in paragraph 5 fail to disclose sealing layer containing linear ethylene -1-octene copolymer blended with EVA, intermediate layer containing pigment and chub packaging.

Bekele discloses that hot blown films are suitable for chub packaging (Col. 1, lines 10-11).

Lind et al disclose a heat shrinkable barrier film comprising barrier layer of vinylidene chloride methacrylate copolymer and sealing layer (28) of a mixture of linear low density polyethylene made with constrained geometry catalyst or metallocene single site catalyst (Col. 3, line 44 to col.6, line 7). Addition of EVA to linear low density polyethylene provides improved adhesion (Col. 7, lines 27-46). Lind et al also suggest addition of pigment to make pigmented layer (Col. 11, lines 25-36).

Therefore it would have been obvious to a person of ordinary skill in the art to which this invention pertains to utilize disclosure of Bekele and Lind et al in

the invention of Yoshii et al to make sealing layer of a blend of linear low density polyethylene and EVA for adhesion and film packaging meat as disclosed by Bekele.


7. Receipt of Information Disclosure Statement filed December 9, 2003 is acknowledged and made of record.

8. Claim 23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claim is allowable because art of record does not teach or suggest claimed multilayer film having claimed layers with claimed specific composition.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


D. S. Nakarani
Primary Examiner
Art Unit 1773

Dsn
September 26, 2005.